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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/628,864

07/28/2003

Michael Nally

57471/03-454

3817

22206

7590

04/19/2006

FELLERS SNIDER BLANKENSHIP
BAILEY & TIPPENS
THE KENNEDY BUILDING
321 SOUTH BOSTON SUITE 800
TULSA, OK 74103-3318

EXAMINER

TON, ANABEL

ART UNIT

PAPER NUMBER

2875

DATE MAILED: 04/19/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/628,864

Applicant(s)

NALLY ET AL.

Examiner

Anabel M. Ton

Art Unit

2875

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 January 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 and 12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) 7, 8 and 12 is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 01/06.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-6,9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chien (5,871,271) and further in view of Romano (3,963,917)

Chien discloses the claimed invention except for the recitation of the translucent windows comprising protrusions. Chien discloses a protective shell defining an inside surface and an outside surface (1,33) an outer shell in communication with said outside surface of said protective shell (33); a plurality of lamps adapted to emit light through said outer shell (17, fig 2); wherein each of said plurality of lamps are beneath an outside surface of said protective shell (as shown in figure 1, groove/space 4 in the protective shell accommodates LED 17 and the optical device encapsulating it 18. Since the light source 17 is flush with the outer surface of the protective shell by means of the optical device 18, the light source 17 is considered to be located beneath the outer surface of the protective shell); a power supply in electrical communication with said plurality of lamps to provide power for the operation of said plurality of lamps (10); a motion detecting switch in communication with said lamps such that upon movement of said motion detecting switch (41), electrical power is supplied to least one lamp of said plurality of lamps for a predetermined period of time and wherein said outer shell is provided with a plurality of translucent windows through which said lamps emit light

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(35). Romano discloses a light source on a helmet with a transparent bulb like protrusion made of a shatter resistant material to protect the bulb harsh exterior elements. It would have been obvious to one having ordinary skill in the art at the time the invention was made to substitute each translucent windows in the helmet of Chien for a transparent protrusion as taught by the helmet of Romano since Romano teaches that such a bubble like protrusion (12) is purposeful for withstanding rough treatment from environmental conditions so that the light source may be protected from these conditions.

- Chien discloses a flasher module having a plurality of programs (col. 7 lines 1-27);
- The power supply comprises a battery;
- The plurality of lamps are LEDs (Chien);
- A first program turns on all the lamps for a predetermined period of time.
- With regards to the second program initiating the light sources to flash in a random manner, it would have been obvious to one of ordinary skill in the art at the time the invention was made to implement such a program in the device of Chien since Chien provides for a multitude of controlling means for initiating a sequence of flashing of the light device and flashing the lighting devices randomly would be purposeful for an aesthetically pleasing effect of the helmet;
- The plurality of lamps are beneath an outside surface of the protective shell.

Allowable Subject Matter

3. Claims 7-8,12 are allowed.

4. The following is a statement of reasons for the indication of allowable subject matter: The prior art cited does not teach the feature of the protrusions being elliptical having a longitudinal axis aligned with a front to back axis of the protective shell and a conductive ball housed in the housing such that upon sufficient movement of the motion detecting switch the ball will roll into simultaneous contact with the conductive inner surface of the contact thereby completing an electrical circuit between the first and second terminal.

Response to Arguments

5. Applicant's arguments filed 1/19/06 have been fully considered but they are not persuasive. In response to applicant's argument that the teachings of Chien and Romano are incompatible regarding function and placement of the plurality of lamps, the test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981). In this case although applicant argues that Chien in col. 2 lines 41-49 was concerned with the decrease in possible LED penetration through the helmet and into the head of the wearer and Romano makes no mention of concern for the light penetrating the helmet into the wearer's head, the examiner feels that these arguments are irrelevant since Chien teaches all the elements except for the mention of the transparent

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areas/windows 35 being protrusions as opposed to flat as taught by Chien. The modification of the transparent windows/area of the device of Chien to include a protrusion shape as taught by Romano would have been obvious at the time the invention was made to one of ordinary skill, since although Chien teaches these windows/areas as a covering to the light sources located in the protective shell, one of ordinary skill would have recognized the benefits of modifying these flat transparent windows/areas to have the shape of the protrusion of Romano since, as recited above, Romano teaches that such a shape is beneficial to protect an interior lighting element from harsh conditions. One of ordinary skill would have recognized that such a protective shape would be of benefit to integrity helmet particularly the light sources underneath an outer surface of the helmet, since the helmet is inherently protective headwear and would be subject to harsh conditions.

Conclusion

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

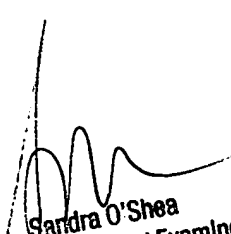
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anabel M. Ton whose telephone number is (571) 272-2382. The examiner can normally be reached on 08:00-16:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sandra O'Shea can be reached on (571) 272-2378. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Anabel M Ton
Examiner
Art Unit 2875

AMT


Sandra O'Shea
Supervisory Patent Examiner
Technology Center 2800

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